

SALES AND USE TAX

A. INTRODUCTION

Wisconsin imposes a 5% tax on the sale or use of most tangible personal property and on selected services. The tax is imposed on retailers for the privilege of selling, leasing or renting taxable tangible personal property. In addition, a 5% use tax is imposed on the storage, use or other consumption in this state of tangible personal property that is purchased out-of-state and that would be taxable if it were purchased in this state. The use tax complements the sales tax in that consumers cannot avoid sales tax by purchasing goods out-of-state, thereby ensuring that the sales tax does not place Wisconsin merchants at a competitive disadvantage compared with those in other states.

The sales tax is Wisconsin's second largest general purpose revenue (GPR) tax, generating \$3,899 million, or 36% of total GPR taxes, in FY04.

B. HISTORY OF THE SALES TAX

The state first imposed a 3% selective sales and use tax in 1962 but replaced it with a 4% general sales and use tax in 1969. The current 5% rate has been in effect since 1982.

The initial 3% tax was selective in that sales of goods and services subject to the tax were specifically identified in the statutes. Taxable goods included household furnishings, motor vehicles, jewelry, tobacco products except cigarettes, fermented malt beverages, intoxicating liquors and food sold in restaurants. Taxable services included hotel rooms and other short-term accommodations; admissions to amusement, athletic, entertainment or recreational places or events; and local telephone services billed to business users. In 1963, furs, automobile parts and services, cosmetics and industrial equipment became taxable.

The general tax imposed in 1969, in contrast to the selective tax, falls on all sales of tangible personal property except sales exempted by law. The sales tax remains selective in its treatment of services, imposed only on services specifically identified in the law as taxable. The 1969 law expanded taxable services to include the repair, service, alteration, fitting, cleaning, painting, coating, towing, inspection, and maintenance of all items of tangible personal property unless the property would have been exempt from sales tax.

The sales tax base has been changed over the years. Exemptions are discussed in detail in Section D of this paper. Major expansions of the sales and use tax base include:

- Cigarettes and cable television, including installation (1975);
- Interstate telephone and telegraph services, and landscaping and lawn maintenance services (1982);
- Tangible personal property transferred to the customer in conjunction with the performance or furnishing of a service, and magazines unless sold by subscription (1983);
- Telephone company central office equipment and coin-operated telephone services (1996);

- Telephone answering and messaging services, and telecommunications services terminating in and charged to a service address in the state (1997).

C. TAXABLE SERVICES

The law imposes a sales tax on selected services. Unlike tangible personal property, sales of which are taxable unless specifically exempt, services are not subject to the sales tax unless specifically identified in the statutes. The following services are taxable:

1. Rooms or lodging for less than one-month provided by hotelkeepers, motel operators and other persons furnishing accommodations to the public.
2. Admissions to amusement, athletic, entertainment or recreational places or events. However, admissions to places or events considered educational in nature, such as museums or zoos, and admissions to county fairs are exempt from sales tax.
3. Telecommunications services originating or terminating in Wisconsin and charged to a service address in the state, including coin-operated telephone services but not including cellular telephone services or telephone services that originate outside the state and that are obtained by means of a toll-free number. Cellular services are taxed at the customer's place of primary use of the service, typically the customer's residence or business address. Prepaid telephone cards and authorization numbers are taxed at the time of purchase; services obtained through the use of prepaid cards and authorization numbers are not taxable.
4. Laundry, dry cleaning, pressing and dyeing services, except when performed on raw materials, on goods in process or on cloth diapers by a diaper service, and except when performed by the customer through the use of coin-operated, self-service machines.
5. Photographic services, including the processing, printing and enlarging of film, and the services of photographers for the taking, reproducing and sale of photographs.
6. Parking or providing parking space for motor vehicles and aircraft, and docking or providing storage space for boats.
7. Services to taxable tangible personal property, including the repair, service, alteration, fitting, cleaning, painting, coating, towing, inspection, and maintenance of such property. Services are not subject to tax if the property, when installed or applied, constitutes an addition to or capital improvement of real property.
8. The production, printing or imprinting of tangible personal property for consumers who furnish directly or indirectly the materials used in such processes.
9. Cable television services, including installation charges.
10. Landscaping and lawn maintenance services.
11. Telephone answering and messaging services.

D. EXEMPTIONS

1. Exemptions for Property Sold Primarily to Households

- a. Food and beverages purchased for home consumption. However, candy, soda water beverages, beer, wine, liquor and similar items are taxable. Sales from vending machines of food, food products and beverages are treated as sales for home consumption. Meals sold in restaurants, cafes and cafeterias are taxable.
- b. Meals furnished by institutions of higher education if they are furnished to students enrolled in that institution or under an agreement with a National Football League team.
- c. Water sold through mains and water sold by public and private water utility districts.
- d. Caskets and burial vaults.
- e. Coin-operated laundry services and dry cleaning services, including pressing and dyeing services performed on raw materials in process and destined for sale.
- f. Motor fuels that are subject to the state motor fuel excise tax, including gasoline, commercial and general aviation fuel and diesel fuel.
- g. Newspapers, periodicals sold by subscription, and shoppers guides of which at least 48 issues per 12-month period are distributed.
- h. Fuel (e.g., fuel oil, coal, propane, and wood) for residential use, and electricity and natural gas for residential use billed from November through April.
- i. Manufactured homes and mobile homes used as primary housing.
- j. Cloth diapers and diaper services.
- k. U.S. and Wisconsin flags.

2. Exemptions Related to Health Care

- a. Prescription drugs and medicines.
- b. Meals provided by nursing homes, community-based residential facilities and hospitals, and food sold in retirement homes.
- c. Insulin and other drugs and equipment used in the treatment and testing of diabetes.
- d. Medical appliances and devices, including wheelchairs, crutches, artificial limbs, eyes and teeth, prescription eye glasses, hearing aids, equipment used to administer prescription oxygen, prescription antiembolism hose and stockings, adaptive equipment to enable handicapped persons to use motor vehicles, and repair parts and accessories for exempt appliances and devices.

3. Exemptions Related to Farming

- a. Tractors and farm machinery, including accessories, attachments, fuel and parts, used directly in farming. The exemption does not apply to motor vehicles for highway use, such as cars and trucks.
- b. Semen used for the artificial insemination of livestock.
- c. Electricity and fuel used in farming.
- d. Veterinary services and medicines for farm livestock.
- e. Milkhouse supplies used exclusively in producing and handling milk on dairy farms.
- f. Seed, feed, fertilizer, and other inputs to agriculture.

4. Exemptions Related to Nonfarm Businesses

- a. Machinery and equipment and repair parts used exclusively and directly in manufacturing. Manufacturing is generally defined as the production by machinery from existing materials of a new article with a different form, use or name. Mobile mining and processing units, including the vehicles on which they are mounted, are also exempt manufacturing machinery and equipment.
- b. Fuel and electricity consumed in manufacturing, beginning in January 1, 2006. This exemption replaces a corporate income tax credit for expenditures by manufacturers for fuel and electricity.
- c. Trucks, tractors, buses, trailers and semi-trailers and accessories, parts and supplies sold to common or contract carriers.
- d. Railroad rolling stock (such as locomotives, rail freight cars), accessories, attachments and fuel and lubricants used in railroad operations.
- e. Commercial vessels and barges in excess of 50 tons and primarily engaged in interstate or foreign commerce or commercial fishing, and accessories, parts and fuel for these vessels.
- f. Motion pictures, television films and advertising materials sold, leased or rented to movie theaters or radio or television stations.
- g. Waste treatment and pollution control facilities, replacement parts, and chemicals and supplies used in operating a waste treatment facility. The exemption applies to expenditures by governmental units, private industry and their construction contractors for sewage treatment plants, holding ponds and similar facilities.
- h. Machinery and equipment and repair parts used exclusively and directly for waste reduction or recycling activities.
- i. Equipment used in the production of maple syrup.
- j. Wood residue from the harvesting of timber used as a fuel in a business activity.

- k. Logging equipment.
- l. Tangible personal property purchased tax-free and donated to a nonprofit organization.
- m. Building materials, equipment and supplies used in the construction of professional sports stadiums – notably, Miller Park constructed by the Southeast Wisconsin Professional Baseball Park District, and Lambeau Field constructed by the Green Bay-Brown County Professional Football Stadium District.
- n. Live game birds and clay pigeons sold to licensed game farms.
- o. Telephone service obtained through prepaid telephone cards and authorization numbers, if sales tax was paid on the card or authorization number at the time it was purchased.
- p. Restaurant employee meals provided during work hours.
- q. One-time licenses or rights to purchase admissions to professional football games.
- r. Raw materials used in manufacturing and printing, and other business inputs.

5. Exemptions for Government Agencies and Nonprofit Organizations

- a. Sales of goods and services to the federal government or to any of its agencies or instrumentalities. Taxing purchases by the federal government would violate the U.S. Constitution.
- b. Sales of goods and services to state and local governments, schools, local exposition districts, metropolitan sewerage districts and the University of Wisconsin Hospitals and Clinics Authority.
- c. Sales of goods and services to any corporation, community chest, foundation or association organized and operated exclusively for religious, charitable, scientific or educational purposes.
- d. Tickets or admissions to elementary and secondary school activities, if the net proceeds are used for educational, religious or charitable purposes.
- e. Hot lunches and other personal property sold by elementary and secondary schools.
- f. Volunteer fire department equipment.
- g. State park admission fees and camping fees.
- h. Admissions to the Circus World Museum in Baraboo.
- i. Sales by American Legion Baseball Teams.
- j. Charges levied by a county or group of counties to finance an emergency telephone system ("911" system). Also, charges levied by the Public Service Commission of Wisconsin to fund an enhanced (E911) emergency telephone system.

- k. Motor vehicles loaned by an automobile dealer for a driver education program conducted by a school or school district.
- l. Snowmobile trail grooming equipment and attachments when purchased by snowmobile clubs for use in maintaining the state system of snowmobile trails. To qualify for the exemption, an organization must meet at least three times a year and have at least 20 members.
- m. Copies of public records, including fees for searches.
- n. Animal identification tags and standard samples sold by the Wisconsin Department of Agriculture, Trade and Consumer Protection.
- o. Admissions to county fairs.
- p. Sales to the Madison Cultural Arts District.

6. Exemptions for Nonresidents and for Use in Other States

- a. Tangible personal property shipped in interstate commerce. The U.S. Constitution prohibits the taxation of such property.
- b. Property purchased for use outside the state, and sales of property delivered and prepared for export.
- c. Aircraft used in interstate commerce, and aircraft, motor vehicle and truck bodies sold for use outside the state.
- d. Property, such as railroad ties, sold to common or contract carriers, if the property is shipped to a destination outside this state.
- e. Printed advertising materials produced in Wisconsin and sold to purchasers for use outside the state.
- f. Boats of nonresidents berthed in boundary waters. A boat is exempt from use tax if the boat owner is a resident of a state contiguous to Wisconsin, the boat is berthed in boundary waters adjacent to the owner's state of residence, and the purchase of the boat was an exempt occasional sale.
- g. Aircraft purchased in another state by a nonresident individual or business and kept in a hangar in Wisconsin is exempt from use tax.
- h. Goods purchased 90 or more days prior to the date the person moves to Wisconsin. This exemption applies to all household goods, including automobiles and other registered vehicles that are purchased for personal use.
- i. Tangible personal property brought into the state by nonresidents of Wisconsin for personal use while temporarily in Wisconsin is exempt from the use tax. However, if the property is used to conduct a trade, business or profession, or used in the performance of personal services for wages or fees, the property is subject to tax.
- j. Temporary storage of raw materials that are incorporated into printed materials to be transported outside Wisconsin, and thereafter used solely outside Wisconsin. For

example, paper purchased by a company from an out-of-state vendor and delivered to a Wisconsin printer that prints catalogs for the purchaser is exempt, if the catalogs are distributed only outside Wisconsin.

7. Miscellaneous Exemptions

- a. Labor input into construction.
- b. Trade-ins. Sales tax is applied only to the difference between the value of the product purchased and the value of the trade in. The value of the trade in on a vehicle replaced under the Lemon Law may be applied to the taxable cost of the replacement vehicle.
- c. Transportation charges, if the charges are stated separately, and if the transportation occurs after the purchaser takes possession of the property.
- d. Occasional sales, i.e., sales by persons other than those offering goods for sale in the ordinary course of business. Taxable occasional sales include sales of automobiles, aircraft, trailers, semi-trailers, snowmobiles, all-terrain vehicles, and mobile homes not exceeding 45 feet in length, registered in the state, and boats registered in the state or in the U.S. Occasional sales are exempt if made to a spouse, parent or child, or the spouse of a parent or child, and if the item had previously been registered in Wisconsin, or in the case of boats, registered in the state or in the U.S. Also, the transfer of a motor vehicle from an individual to a corporation solely owned by that individual is exempt.
- e. Infrequent auction sales of farm personal property and household goods.
- f. Retailer's discount, equal to 0.5% of a retailer's tax liability or a minimum of \$10 per filing period as compensation for the costs of collecting and remitting sales taxes.

8. Exclusions (Exemptions) That Further Define Retail Sales

By law, retail sales are subject to the sales tax. A retail sale is defined as one where the buyer makes a purchase with no intention of resale. However, the statutes clarify the definition of a retail sale to exclude certain sales from taxation and these exclusions have the same effect as exemptions:

- a. Tangible personal property that is consumed destroyed or loses its identity in the manufacturing process of finished goods.
- b. Materials and services that become component parts of shopper's guides, newspapers and periodicals.
- c. Tangible personal property used exclusively in farming when the user is engaged in farming as a business enterprise; examples include feed for livestock, seed and fertilizer.
- d. All fuels converted to electric energy, gas or steam by utilities.
- e. Packaging materials used by the purchaser to transfer merchandise to customers and all meat-packaging materials, regardless of whether the purchaser uses the materials to transfer merchandise to customers.

- f. Charges for interest, financing or insurance when such charges are stated separately.
- g. Contributions or transfers of property to a business resulting from the formation or reorganization of the business.
- h. Distributions of property from a business resulting from liquidation of the business.
- i. Accounts that are worthless, uncollectible and charged off for income tax purposes.
- j. The portion of the sales price that is either refunded in cash or credit as a result of property returned.
- k. The transfer of electric transmission facilities to a transmission company.

E. ADMINISTRATION OF SALES AND USE TAXES

Sales tax is imposed on the gross receipts from retail sales while the use tax is imposed on the amount paid for a good. The retailer is responsible for paying sales tax, regardless of whether the tax is identified on the bill or collected directly from the customer. Every business that makes taxable sales is required to obtain a registration certificate and pay a \$20 business tax registration fee. A registration certificate is required for the department to issue a Wisconsin employer identification number, a seller's permit and permits for other taxes.

Under 2003 Act 33, state agencies are prohibited from purchasing materials, supplies, equipment or services from any retailer that refuses, or whose affiliates refuse, to collect and remit sales and use taxes on sales to customers in Wisconsin.

Retailers may retain a portion of the taxes they collect as compensation for the costs they incur in collecting the tax. Since 1993, the retailer's discount has been 0.5% of the amount of tax liability if taxes are paid timely; in 1997 the law was amended to provide a minimum retailer's discount of \$10 per filing period. Retailers file monthly, quarterly or annually, depending on the amount of tax owed.

In contrast to the sales tax that is paid by the seller, use tax is paid by the purchaser. Corporations may file a use tax return or report use tax on the corporate income and franchise tax returns. Private individuals report their use tax liability on their individual income tax returns.

Businesses that meet specified conditions may apply to the department for a direct pay permit allowing the holder to purchase goods without tax and pay sales and use tax directly to the department. Direct pay permits are issued to businesses whose costs of administering sales and use taxes would be reduced by the use of such a permit and from whose accounting records taxable transactions can be readily identified, among other conditions.

F. LOCAL SALES AND USE TAXES

Counties, professional football stadium districts and professional baseball park districts may levy local sales and use taxes on the same tax base as the state sales tax. As of January 1, 2005, 58 counties levied the 0.5% county sales tax. Distributions to counties in FY04 totaled \$255.3 million.

The Southeast Wisconsin Professional Baseball Park District began imposing a 0.1% sales tax

in Milwaukee, Ozaukee, Racine, Washington and Waukesha Counties on January 1, 1996. Proceeds from this tax are used to finance Miller Park, the Milwaukee Brewers' home field. This tax will be discontinued upon retirement of the bonds issued to finance the ballpark and the funding of a maintenance and capital improvement fund for the ballpark. Distributions to the baseball park district totaled \$24.6 million in FY04.

The Green Bay-Brown County Professional Football Stadium District began imposing a 0.5% sales tax in Brown County on November 1, 2000, to finance renovation of Lambeau Field. This tax will be discontinued upon retirement of the bonds issued to finance the stadium and the funding of a maintenance and capital improvement fund for the stadium. Distributions to the football stadium district totaled \$21.2 million in FY04.

Table 1 lists the state's 72 counties, the local sales taxes applicable in each county, the effective date of the county sales tax, and the combined state and local sales tax rate.

TABLE 1
LOCAL SALES AND USE TAXES AND COMBINED STATE-LOCAL TAX RATE BY COUNTY
AS OF JANUARY 1, 2005

County	Local Taxes (Effective Date)	Combined State-Local Tax Rate	County	Local Taxes (Effective Date)	Combined State-Local Tax Rate
Adams	County (1/1/94)	5.5%	Marathon	County (4/1/87)	5.5%
Ashland	County (4/1/88)	5.5%	Marinette	County (10/1/01)	5.5%
Barron	County (4/1/86)	5.5%	Marquette	County (4/1/89)	5.5%
Bayfield	County (4/1/91)	5.5%	Menominee	None	5.0%
Brown	Football Stadium (11/1/00)	5.5%	Milwaukee	County (4/1/91), Ballpark (1/1/96)	5.6%
Buffalo	County (4/1/87)	5.5%	Monroe	County (4/1/90)	5.5%
Burnett	County (4/1/89)	5.5%	Oconto	County (7/1/94)	5.5%
Calumet	None	5.0%	Oneida	County (4/1/87)	5.5%
Chippewa	County (4/1/91)	5.5%	Outagamie	None	5.0%
Clark	None	5.0%	Ozaukee	County (4/1/91), Ballpark (1/1/96)	5.6%
Columbia	County (4/1/89)	5.5%	Pepin	County (4/1/91)	5.5%
Crawford	County (4/1/91)	5.5%	Pierce	County (4/1/88)	5.5%
Dane	County (4/1/91)	5.5%	Polk	County (4/1/88)	5.5%
Dodge	County (4/1/94)	5.5%	Portage	County (4/1/89)	5.5%
Door	County (4/1/88)	5.5%	Price	County (1/1/93)	5.5%
Douglas	County (4/1/91)	5.5%	Racine	Ballpark (1/1/96)	5.1%
Dunn	County (4/1/86)	5.5%	Richland	County (4/1/89)	5.5%
Eau Claire	County (1/1/99)	5.5%	Rock	None	5.0%
Florence	None	5.0%	Rusk	County (4/1/87)	5.5%
Fond du Lac	None	5.0%	St. Croix	County (4/1/87)	5.5%
Forest	County (4/1/95)	5.5%	Sauk	County (4/1/92)	5.5%
Grant	County (4/1/02)	5.5%	Sawyer	County (4/1/87)	5.5%
Green	County (1/1/03)	5.5%	Shawano	County (4/1/90)	5.5%
Green Lake	County (7/1/99)	5.5%	Sheboygan	None	5.0%
Iowa	County (4/1/87)	5.5%	Taylor	County (7/1/99)	5.5%
Iron	County (4/1/91)	5.5%	Trempealeau	County (10/1/95)	5.5%
Jackson	County (4/1/87)	5.5%	Vernon	County (1/1/97)	5.5%
Jefferson	County (4/1/91)	5.5%	Vilas	County (4/1/88)	5.5%
Juneau	County (4/1/92)	5.5%	Walworth	County (4/1/87)	5.5%
Kenosha	County (4/1/91)	5.5%	Washburn	County (4/1/91)	5.5%
Kewaunee	None	5.0%	Washington	County (1/1/99), Ballpark (1/1/96)	5.6%
LaCrosse	County (4/1/90)	5.5%	Waukesha	Ballpark (1/1/96)	5.1%
Lafayette	County (4/1/01)	5.5%	Waupaca	County (4/1/89)	5.5%
Langlade	County (4/1/88)	5.5%	Wausara	County (4/1/90)	5.5%
Lincoln	County (4/1/87)	5.5%	Winnebago	None	5.0%
Manitowoc	None	5.0%	Wood	County (1/1/04)	5.5%

The City of Milwaukee created a local exposition district, the Wisconsin Center District, which is contiguous to Milwaukee County. Within the district, food and beverages for on-premises consumption are subject to a 0.25% tax, rental cars to a 3% tax and hotel rooms and other temporary lodging to a tax of up to 9%. The room tax consists of a basic 2% room tax and, for rooms furnished within the City of Milwaukee, an "additional" 7% room tax. Local exposition district taxes totaled \$15.1 million in FY04.

Premier resort area taxes were authorized in 1997 as a method of funding infrastructure in tourist areas. Under the law, a county or municipality may designate itself a premier resort area and levy a premier resort area tax if tourism-related businesses account for at least 40%

of its property value. Amendments to the law allowed the cities of Bayfield and Eagle River to create premier resort areas despite not meeting the requirement that a premier resort area have 40% of its property value in tourism-related businesses. A premier resort area tax is a sales tax only; it is not complemented by a use tax. Total premier resort area taxes were \$1.8 million in 2003, consisting of Lake Delton (\$1.2 million), Wisconsin Dells (\$0.5 million) and Bayfield (\$47,000). Eagle River has not passed an ordinance creating premier resort area and levying a tax therein.

The Department of Revenue administers local sales taxes. Taxpayers file county and stadium tax information along with their state sales tax returns. Taxpayers file monthly exposition tax returns and quarterly premier resort area tax returns. The Department retains an administrative fee ranging from 1.5% (stadium taxes) to 3% (premier resort area tax) of collections to offset its administrative costs.

G. OTHER STATES' SALES AND USE TAXES

State sales taxes are imposed by 45 states, of which 35 allow local sales taxes. Alaska, Delaware, Montana, New Hampshire and Oregon do not levy sales taxes, although Alaska allows local governments to levy sales taxes. The states that do not impose sales taxes are relatively small, therefore, most of the US population pays sales tax.

State sales and use tax rates range from 2.9% (Colorado) to 7% (Mississippi, Rhode Island, Tennessee). Alabama has the highest allowable combined state and local rate – 11%. Wisconsin's 5% rate is the median state sales tax rate.

The sales tax had been states' single most important revenue source for many years, accounting for over one-third of state taxes. However, individual income taxes have recently exceeded total sales tax collections by states.

Table 2 shows state and local sales tax rates, and the rate for the District of Columbia. About 7,500 jurisdictions impose local sales taxes.

TABLE 2
COMPARISON OF STATE AND LOCAL RETAIL SALES
TAXES AS OF NOVEMBER 2004

State	State Rate	Maximum Local Rate (1)	Maximum State/Local Rate (1)
Alabama	4.00	7.00	11.00
Alaska (2)	---	7.00	7.00
Arizona	5.60	4.50	10.10
Arkansas	6.00	4.625	10.625
California	6.25	3.50	9.75
Colorado	2.90	4.50	7.40
Connecticut	6.00	---	6.00
District of Columbia	5.75	---	5.75
Florida	6.00	2.50	8.50
Georgia	4.00	3.00	7.00
Hawaii	4.00	---	4.00
Idaho (3)	6.00	2.00	8.00
Illinois	6.25	2.50	8.75
Indiana	6.00	---	6.00
Iowa	5.00	2.00	7.00
Kansas	5.30	3.00	8.30
Kentucky	6.00	---	6.00
Louisiana	4.00	5.50	9.50
Maine	5.00	---	5.00
Maryland	5.00	---	5.00
Massachusetts	5.00	---	5.00
Michigan	6.00	---	6.00
Minnesota	6.50	1.00	7.50
Mississippi	7.00	---	7.00
Missouri	4.225	4.00	8.225
Nebraska	5.50	1.50	7.00
Nevada (4)	6.50	0.75	7.25

TABLE 2 (continued)
COMPARISON OF STATE AND LOCAL RETAIL SALES TAXES
AS OF NOVEMBER 2004

State	State Rate	Maximum Local Rate (1)	Maximum State/Local Rate (1)
New Jersey	6.00	---	6.00
New Mexico	5.00	2.1875	7.1875
New York (5)	4.25	4.50	8.75
North Carolina	4.50	2.00	6.50
North Dakota	5.00	2.00	7.00
Ohio (6)	6.00	2.00	8.00
Oklahoma	4.50	5.25	9.75
Pennsylvania	6.00	1.00	7.00
Rhode Island	7.00	---	7.00
South Carolina	5.00	1.00	6.00
South Dakota	4.00	2.00	6.00
Tennessee	7.00	2.75	9.75
Texas	6.25	2.00	8.25
Utah	4.75	2.00	6.75
Vermont	6.00	---	6.00
Virginia	4.00	1.00	5.00
Washington	6.50	2.30	8.80
West Virginia	6.00	---	6.00
Wisconsin	5.00	0.60	5.60
Wyoming	4.00	2.00	6.00

(1) Highest rate known to be actually levied by at least one local jurisdiction. Includes local taxes for general purposes and those earmarked for specific purposes (e.g. transit). Taxes applying only to specified sales (e.g. lodging or meals) are excluded.

(2) Alaskan cities and boroughs may levy a local sales tax up to 7%.

(3) Idaho's rate is 6% from May 1, 2003 through June 1, 2005, thereafter decreasing to 5%.

(4) Nevada's state rate is composed of a 2% state rate plus a state-mandated 4.5% county rate.

(5) New York's rate increases to 4.25% from June 1, 2003 through May 1, 2005, then returns to 4%.

(6) Ohio's rate decreases to 5%, effective July 1, 2005.

Source: Commerce Clearing House's CCH Tax Research Network.

Sources: Federation of Tax Administrators, Commerce Clearing House, Inc., and state tax agency websites.

H. CURRENT ISSUES IN SALES AND USE TAXATION

1. Streamlined Sales Tax Project

States, including Wisconsin, have become increasingly concerned about the erosion of sales and use tax collections due to mail order, catalog, e-commerce and other sales to Wisconsin residents from out of state. Estimates of the foregone tax revenue vary widely but a recent estimate of Wisconsin's loss is \$130 million in 2003, increasing to over \$200 million by 2007.

The courts have held that a company is not required to collect tax for a state unless the company has a substantial presence in that state. According to the courts, state and local sales taxes are so complex that it is an unreasonable burden to require a company that does not have a presence in a state to collect taxes for that state. There are an estimated 7,500 jurisdictions that levy sales taxes, each with its own tax rate and tax base. The courts have also indicated that the US Congress has the power to require companies to collect taxes for states.

Although purchasers are liable for payment of use tax on such sales, compliance is very poor, especially by private individuals.

The Streamlined Sales Tax Project (SSTP) is an initiative begun in 2000 to simplify sales taxes by limiting the number of rates and adopting common definitions and common procedures. Forty-two of the 45 states that levy sales taxes and the District of Columbia are involved in the project.

Goals of the project include:

- Uniform definitions within tax laws. Under the project, states, with private sector input, have agreed on definitions of products and terms, such as "computer," "delivered electronically," "medical equipment," "food," and "prepared food".
- Rate simplification. States will be allowed a one general tax rate and a second rate for food and drugs. Local governments will be allowed only a single rate.
- State administration of all state and local sales and use taxes.
- Uniform sourcing rules.
- Uniform audit procedures.
- State funding of the system.

About 20 states are in conformance with the Streamlined Agreement in that these states have enacted legislation adopting the common definitions and procedures. Wisconsin is not among the conforming states although conforming legislation was introduced in the 2003-05 legislative session and is expected to be re-introduced in the 2005-07 session. As more states simplify their sales and use tax systems by adopting the common definitions and procedures, sellers are expected to choose to collect tax under the system. In fact, several companies began collecting taxes under the project in 2004. As simplification becomes more widespread, the criticism that the current system is too complex becomes less valid, and Congress may enact legislation requiring remote sellers to collect sales taxes.

2. Taxes on Internet Access and Voice over Internet Protocol (VOIP)

The federal Internet Tax Freedom Act imposed a moratorium beginning in 1998 on sales taxes on Internet access. However, the law had a grandfather provision that allowed a state or local government to continue to tax Internet access if it had levied its tax prior to 1998. Wisconsin is among the 10 or so states to which the grandfather provision applied. The moratorium was intended to prevent taxes from stifling the expansion and development of the Internet and e-commerce.

Although the Internet and e-commerce are mature technologies scarcely in need of protection, the Internet Tax Nondiscrimination Act (ITNA) was enacted in December 2004. ITNA extended the moratorium on taxes on Internet access through November 1, 2007 and repealed the grandfather clause under which Wisconsin taxes Internet access as of

November 1, 2007.

Voice over Internet Protocol (VOIP) is an Internet-based technology that is expected to displace traditional voice telephone service in the coming years. ITNA states it would not affect the imposition of a tax on VOIP but it is not clear how effective this protection would be. Since VOIP is typically bundled with other Internet services, such as Internet access and voice mail, providers may simply allocate a minimal portion of the total charge to VOIP, largely exempting VOIP from tax.

I. STATISTICAL SECTION

Collections of sales and use taxes have increased as the economy has grown and Wisconsin personal incomes have increased. In addition, the state tax rate has been increased and the tax base has been modified. State collections increased from \$117.5 million in FY69 (the last year of the 3% selective sales tax) to \$3,899 million in FY04. Table 3 shows sales and use taxes for selected years, the percentage change in collections from the prior year, and when law changes took effect.

TABLE 3
SALES TAX COLLECTIONS, SELECTED YEARS

	Collections (\$ millions)	% Change from Prior Year	Major Law Changes
FY1969	\$117.5		Last year of 3% selective sales tax
FY1970	272.5	132.02%	First year of 4% general sales tax
FY1983	1,209.4	25.84%	Rate increased from 4% to 5%
FY1994	2,427.9	7.40%	
FY1996	2,704.3	5.17%	
FY1998	3,047.4	6.39%	
FY2000	3,501.7	6.61%	
FY2002	3,695.8	2.38%	
FY2004	3,899.3	4.32%	

Table 4 shows the source of sales and use taxes by type of business. Since sales and use tax falls primarily on tangible personal property sold to final consumers, it is not remarkable that businesses classified in retail trade accounted for most sales tax – 61% of total state sales taxes and 53% of registered filers.

**TABLE 4
WISCONSIN SALES AND USE TAXES BY NAICS, 2003**

NAICS	Descriptions	Filers	Total
11	Agricultural, Forestry, Hunting, & Fishing	603	\$3,350,178
233-235	Construction	4,698	86,430,762
221, 454	Utilities & Other Fuel Dealers	253	223,116,983
	Subtotal: Information & Communications	1,762	\$235,083,948
511	Publishing	679	14,748,500
512	Motion Picture, Video, & Sound Industries	107	2,101,282
513, 5141	Broadcasting, Telecommunications & Information Services	976	218,234,165
	Subtotal: Manufacturing	6,228	\$129,651,935
311, 312	Food, Beverage & Tobacco Manufacturing	165	3,460,284
21, 32	Raw Materials Manufacturing, Including Quarrying	1,027	27,352,974
324-327	Chemical & Nonmetallic Mineral Product Manufacturing	377	13,804,178
33	Mechanical, Machinery, Industrial & Other Manufacturing	4,659	85,034,499
	Subtotal: Retail	75,687	\$2,264,309,318
722	Food Services & Drinking Places (Restaurants & Bars)	13,773	284,847,929
711	Performing Arts, Spectator Sports & Related Industries	665	17,232,242
713	Amusement, Gambling, Recreation Industries	1,289	19,466,759
441	Automobiles & Other Motor Vehicles	4,023	480,821,795
447100	Gasoline Stations (including convenience stores with gas)	1,744	57,313,320
448	Clothing & Accessories Stores	2,556	116,107,179
443	Electronic & Appliance Stores	1,171	70,407,692
445	Food & Beverage Stores	3,205	168,139,630
442, 444	Furniture & Home Furnishings Stores	5,349	290,207,367
446	Health & Personal Care Stores	597	30,275,982
451	Sporting Goods, Hobby, Book, & Music Stores	3,343	52,156,251
452, 453	General Merchandise Stores	1,311	362,001,271
453 et al.	Other Store Retailers	33,594	288,745,988
453, 454	Nonstore Retailers	3,067	26,585,910
	Subtotal: Services	47,092	\$479,229,026
721	Hotels, Motels & Other Traveler Accommodations	3,730	65,960,389
52, 55	Banking, Insurance And Other Finance Activities	674	15,645,939
561	Administrative & Support Services	1,160	18,063,768
62	Health Care And Social Assistance Services	1,908	6,203,623
812	Personal & Household Services	14,350	93,985,253
Various	Business Services	8,739	77,398,591
811	Repair & Maintenance Services	8,527	68,200,148
541	Professional Services	455	716,274
5413	Architectural, Engineering, & Related Services	163	901,320
5415	Computer System Services	2,433	38,854,798
54	Scientific & Other Services	641	5,711,627
532	Rental & Leasing Services	3,739	85,090,313
531	Real Estate Services (Rental, Management, Appraisal)	573	2,496,982
	Subtotal: Wholesale	4,596	\$180,170,616
421	Durable Goods - Wholesale	3,142	160,745,612
422	Nondurable Goods - Wholesale	1,454	19,425,004
	Subtotal: Miscellaneous	2,866	\$102,134,584
48	Transportation	434	5,442,524
	Miscellaneous & Unclassified	2,432	96,692,060
	Total	143,785	\$3,703,477,348